

CHIVOUS ROBINSON,)
)
 Petitioner,)
)
 v.) No.: 3:07-cv-401
) (VARLAN/GUYTON)
 JOE EASTERLING, Warden,)
)
 Respondent.)

In accordance with the accompanying Memorandum, the petitioner's motion to amend the petition is **GRANTED** and the respondent's motion to dismiss is **GRANTED**. The petition for the writ of habeas corpus is **DENIED** and this action is **DISMISSED**. Should the petitioner give timely notice of an appeal from this decision, such notice will be treated as an application for a certificate of appealability, which under the circumstances is hereby **DENIED**. The Court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. The Court further **DENIES** the petitioner leave to proceed *in forma pauperis* on appeal.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE

s/ Patricia L. McNutt
CLERK OF COURT